

STATE OF MICHIGAN
COURT OF APPEALS

ESTATE OF THOMAS O. BECKER,

Plaintiff-Appellee,

v

CHRISTINE C. HOULE, f/k/a CHRISTINE C.
BECKER,

Defendant-Appellant.

UNPUBLISHED

May 22, 2007

No. 274402

Bay Circuit Court

LC No. 06-003330-CZ

Before: White, P.J., and Saad and Murray, JJ.

PER CURIAM.

Defendant appeals as of right from the circuit court order granting summary disposition in favor of plaintiff. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant and plaintiff's decedent were married in January 1981 and were divorced by consent judgment on June 15, 1987. During the marriage, the decedent designated defendant as the beneficiary of an employment life insurance policy worth approximately \$50,000. Following the death of the decedent on November 6, 2005, his estate sought to receive these proceeds, but learned from the plan administrator that these funds were to be disbursed to defendant as the named beneficiary. Plaintiff thereafter filed this suit. Relying on waiver language in the judgment of divorce, plaintiff moved for summary disposition seeking an order for defendant to turn the proceeds over to the estate. The circuit court granted plaintiff's motion and ruled that the estate was entitled to the proceeds because the language in the divorce judgment extinguished defendant's rights to the policy.

On appeal, defendant argues that the proceeds belong to her because the language of the life insurance provision in the divorce judgment did not preclude the decedent from retaining her as the beneficiary of his policy. We disagree.

We review a trial court's ruling on a motion for summary disposition de novo. *MacDonald v PKT, Inc*, 464 Mich 322, 332; 628 NW2d 33 (2001). A motion under MCR 2.116(C)(10) tests the factual support for a plaintiff's claim. *Corley v Detroit Bd of Ed*, 470 Mich 274, 278; 681 NW2d 342 (2004). "In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), we consider the affidavits, pleadings, depositions, admissions, or any

other documentary evidence submitted in a light most favorable to the nonmoving party to decide whether a genuine issue of material fact exists.” *Singer v American States Ins*, 245 Mich App 370, 374; 631 NW2d 34 (2001). When the evidence fails to demonstrate the existence of a genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Corley, supra* at 278. Furthermore, a judgment entered pursuant to the agreement of parties is of the nature of a contract, which, if unambiguous, is to be interpreted as a question of law. *In re Estate of Lobaina*, 267 Mich App 415, 417-418; 705 NW2d 34 (2005). “Absent a showing of factors such as fraud or duress, courts act properly when they enforce such agreements.” *Id.* at 418 (citation omitted).

A contract is ambiguous when its provisions are capable of conflicting interpretations. *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 467; 663 NW2d 447 (2003). When a written contract is ambiguous, there is a factual question concerning the meaning of its provisions, which requires a factual determination regarding the intent of the parties in entering the contract. *Id.* at 469. However, absent ambiguous language, it is for the trial court to define contract terms according to their “plain or common meanings,” *People v Yamat*, 475 Mich 49, 55; 714 NW2d 335 (2006), and to “give effect to every word, phrase, and clause in a contract....” *Klapp, supra* at 468.

In this case, defendant signed a provision in her judgment of divorce in which she extinguished any interest she had or may have had in any insurance policy the decedent owned. The provision stated that “neither the Plaintiff nor the Defendant shall hereafter have any right, title or interest in or to the insurance upon each other’s lives....” The provision also stated: “[A]nd they shall be at liberty to change the beneficiary on the insurance upon their respective lives or otherwise deal with it or dispose of the same as they see fit.” Defendant acknowledges that the first portion of the provision extinguished her right to any insurance benefits. However, she claims the second portion of the provision contained language that effectively limited the first portion and allowed her to remain the beneficiary of the decedent’s policy.

Contrary to defendant’s argument, the additional language of the provision is not a limitation on the first portion of the clause. The language does not mandate that the parties take certain actions to effectuate the extinguishment of rights. Rather, the additional language merely allows the parties to change the designated beneficiaries of their insurance policies to whomever they wish or to otherwise dispose of the policies. The fact that the decedent forgot or neglected to name a new beneficiary following the divorce does not negate the plain language of the provision that divested defendant of her interest in his life insurance policy. When viewed in its entirety, the insurance provision clearly and unequivocally operated to extinguish defendant’s right to the decedent’s insurance proceeds.¹ Defendant cannot retain the proceeds from the decedent’s insurance policy given that she expressly agreed to forego any entitlement in the

¹ Michigan courts have held that substantially similar language in a judgment of divorce explicitly demonstrated that the parties intended to extinguish any interest one spouse had in the life insurance policy of the other spouse. See *Sweebe v Sweebe*, 474 Mich 151, 157-158; 712 NW2d 708 (2006); *MacInnes v MacInnes*, 260 Mich App 280, 288-289; 677 NW2d 889 (2004).

divorce judgment. See *MacInnes v MacInnes*, 260 Mich App 280, 286-290; 677 NW2d 889 (2004). Accordingly, we hold that the circuit court properly granted summary disposition in favor of plaintiff and directed defendant to turn over the proceeds of the decedent's policy to his estate.

Affirmed.

/s/ Helene N. White
/s/ Henry William Saad
/s/ Christopher M. Murray